

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

JOHN BRILEY

PETITIONER

vs.

Civil Case No. 5:06CV00029 HLJ

LARRY NORRIS, Director,
Arkansas Department of Correction

RESPONDENT

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Court Judge James M. Moody. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than eleven (11) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at

the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The detail of any testimony desired to be introduced at the hearing before the District Judge in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and "Statement of Necessity" to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

Now before the court is Respondent's Motion to Dismiss (DE #12) this petition as moot, because Petitioner's only claim here is his challenge to his loss of good time during disciplinary procedures. Although Respondent has not submitted documentary support with his motion, the court may take judicial notice of its own records in the case of Briley v. Norris, No. 5:08CV00124 (E.D. Ark. July 15, 2008). In that case, which Petitioner filed on May

1, 2008, Petitioner asserted he had been granted early release to a halfway house and his release date was March 21, 2008, but his release had been delayed because of a disciplinary he received on March 4, 2008, which he contended violated due process for various reasons. On July 7, 2008, correspondence from the court to Petitioner in case number 5:08CV00124 was returned marked "Paroled" (DE #10). On July 15, 2008, the District Court dismissed the case as moot (DE #'s 12 & 13).

This court finds the petition herein is moot and should be dismissed. Because Petitioner has received the relief he sought, release on parole, there is no longer a case or controversy and this court does not have jurisdiction to consider the matter. See Spencer v. Kemna, 523 U.S. 1, 7 (1998).

IT IS THEREFORE ORDERED that Respondent's Motion to Dismiss be, and it is hereby, granted. The petition is dismissed without prejudice.

SO ORDERED this 18th day of July, 2008.


United States Magistrate Judge